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may operate in territory served also by township government. In nine township states there is no overlap at all between municipalities and townships. The one exception is Indiana, where there is complete overlap between townships and municipalities. For the rest of this Response, references to townships are meant to refer to both town and township governments.

There are many instances where the township form of government exists outside of concentrated population centers. (NATaT has approximately 13,000 member town and township governments.) Often, the greatest population concentration in a township is in that portion of the township adjacent to a municipality, either one within the township or one bordering a township. Frequently, there is more than one township bordering a municipality. It therefore makes sense that a cable system serving a municipality would also likely want to serve that portion of township population bordering on the municipality

This gives rise to the problem explained in Michigan C-TEC Communities' Petition for Reconsideration. The definition of effective competition in Section 76.905 states that effective competition occurs when fewer than 30 percent of the households in a franchise area subscribe to the cable service of a cable area. The problem arises from the ambiguity of the term "franchise area." Does the franchise area refer to the entire political jurisdiction of the franchise authority, or does it mean those homes in the political jurisdiction of the franchise authority that are actually offered cable services or which can easily be served with minimal additional investment. We argue that it should be the latter.

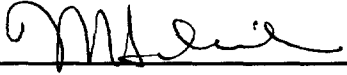
A hypothetical township bordering a municipality may have 20 percent of its population around the municipality and served by the same cable system that serves the municipality. The other 80 percent of the population may be scattered less densely across the remainder of the township. Because of the lower population density, the cable operator may refuse to extend lines to serve all or part of the township's remaining population.

The hypothetical township in this instance, as a franchise authority, would have only twenty percent of the township population served. This would mean that the cable system is subject to effective competition if the total number of households in the township is used as the denominator in the ratio of households served to households in franchise area. Effective competition would hardly be the reality, however. In this instance, the cable system rates in the township would be unregulated because of the refusal of the system operator to extend service, not because of competition, and not because fewer than 30 percent in the franchise area don't want to subscribe to the cable system.

NATaT encourages you to clarify the rules so that the 30 percent test for effective competition will be determined by the ratio of the number of homes in the area of the franchise authority (the township) receiving cable programming services, to the number of homes in that area to which service is offered or which are capable of being served with minimal additional investment. To determine effective competition by using the ratio of homes receiving cable service to the total number of homes in the entire political jurisdiction of the franchise authority would be to make a very substantial number of rural communities unable to gain the relief from cable rates that Congress in-

tended. Rate relief would occur in a haphazard pattern and in one that will cause considerable confusion, and ultimately frustration, among local elected officials.

Submitted on July 16, 1993.

A handwritten signature in dark ink, appearing to read 'M. Halicki', is written over a solid horizontal line.

Thomas J. Halicki
Director of Federal Affairs
National Association of Towns
and Townships